

Statement of James M. Peña  
Associate Deputy Chief, National Forest System  
Forest Service  
United States Department of Agriculture  
Before the United States Senate  
Committee on Energy and Natural Resources  
Subcommittee on Public Lands, Forests and Mining  
April 25, 2013  
Concerning  
S.258 the Grazing Improvement Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.258 the Grazing Improvement Act. The Department supports this bill. We believe that this bill would increase efficiencies, but not at the expense of good land stewardship.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee and while the Department supports certain provisions, we cannot support S.258 as written. The Department specifically has concerns with requirements and definitions in the use of categorical exclusions. The Department also recognizes that the Forest Service and the Bureau of Land Management operate under different authorities, such as the Rescissions Act of 1995, which determines how the Forest Service is to apply NEPA for grazing allotments. As a result, various provisions in S.258 affect the agencies differently. We therefore defer to the Department of Interior on those provisions that don't directly affect the Forest Service, or the impacts of those provisions on Department of the Interior programs.

The Forest Service enjoys a cooperative relationship with the vast majority of the over 6,800 individuals who hold permits for grazing, permitting approximately 8.2 million animal unit months on nearly 94 million acres of National Forests and Grasslands. Grazing permittees have helped provide for the effective stewardship of our public lands for many decades. While the vast majority of the grazing permittees are excellent stewards in caring for range resources, there are some areas where permittees need to take action to improve range conditions. The Forest Service is working with many permittees to make such improvements.

In addition, the Forest Service's grazing program not only helps support the economies of rural communities across the west, but it also helps maintain open space on private lands. Most permittees utilize and need both public and private lands to graze livestock economically. The loss of grazing on public lands can result in the loss of grazing on private lands that may lead to the conversion of private open space to other uses such as subdivision development.

S.258 would revise the permitting process for grazing in the Federal Land Policy and Management Act of 1976. Specifically, the bill would extend the duration of the permit from 10 years to 20 years. The bill also would make permanent the language used in annual appropriation riders which has required expiring permits to be renewed with existing terms and conditions if the National Environmental Policy Act (NEPA) has not been completed on allotments associated with the permit. It further would expand the appropriation riders language to include transferred or waived permits or leases.

The bill would establish and require the use of categorical exclusions (CE) and prohibit the agencies from preparing an environmental assessment or environmental impact statement under NEPA. CEs, which require no public notice, would apply if a decision continues the current grazing management on an allotment; monitoring has indicated that the current grazing management has met or is satisfactorily moving towards meeting land use management plan objectives; or the decision is consistent with the policy of the Department regarding extraordinary circumstances. While we support providing the line officer with the option to use a categorical exclusion category where the parameters of what constitutes a minor adjustment are narrowly defined, we do not support requiring use of categorical exclusions. The bill also would provide the Secretary with the sole discretion to determine the priority and timing for completing

the environmental analysis of a grazing allotment, notwithstanding the schedule in section 504 of the Rescissions Act.

S.258 also exempts crossing and trailing authorizations as well as the transfer of grazing preference from NEPA. We defer to the Department of the Interior on these provisions.

S.258 would require that grazing permits be issued for a term of 20 years rather than the current 10-year term. Permits may be issued for a shorter term on land that is pending disposal or will be devoted to a public purpose, or where it is in the best interest of sound land management on those allotments that have not had initial NEPA.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee. The Department can support the concept of having the flexibility to issue a longer term permit where current management is continued and the allotments are being monitored to assure they are meeting Forest Plan standards. The Department believes that the Secretary rightfully should have the sole discretion to determine the priority and timing for completing environmental analyses of grazing allotments, as is always the case under NEPA. We do not, however, support being limited to only using CEs in certain instances for grazing permits. We have completed NEPA analyses on three-fourths of our grazing allotments. We have been able to move forward with our renewed, reissued and transferred grazing permit program. Our analyses, with or without a CE, have been helpful in determining range conditions, a matter of great concern to all permittees and the Forest Service. We look forward to continuing to work with the committee and sponsors of this bill

This concludes my testimony and I would be happy to answer any questions that you may have.



**Statement of  
Jamie Connell  
Acting Deputy Director  
Bureau of Land Management  
Department of the Interior  
Senate Energy & Natural Resources Committee  
Subcommittee on Public Lands, Forests, and Mining  
S. 258, Grazing Improvement Act  
April 25, 2013**

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S.258, the Grazing Improvement Act. The Bureau of Land Management (BLM) is dedicated to a broad range of stewardship goals, including the long-term health and viability of the public rangelands. Our Nation's rangelands provide and support a variety of goods, services, and values important to Americans. In addition to being an important source of forage for livestock, healthy rangelands conserve soil, store and filter water, sequester carbon, provide a home for an abundance of wildlife, provide scenic beauty and are the setting for many forms of outdoor recreation.

The BLM recognizes that the conservation and sustainable use of rangelands is important to those who make their living on these landscapes—including public rangeland permittees. Public land livestock operations are important to the economic well-being and cultural identity of the West and to rural Western communities. Livestock grazing is an integral part of BLM's multiple-use mission, and at the right levels and timing, can serve as an important vegetation management tool, improving wildlife habitat and reducing risk of catastrophic wildfire.

The BLM is committed to collaborating with those who work on the public lands and takes seriously its challenge to conserve and manage healthy rangelands for current and future generations.

The Department shares the Sub-committee's interest in identifying opportunities for increasing efficiencies in public land grazing administration, as well as finding ways to make permit renewal less complex, costly, and time-consuming. The BLM would like to work with the Committee to further these shared goals. However, the Department cannot support S. 258 as it limits the BLM's ability to provide for appropriate environmental review and public involvement—critical components of the BLM's multiple-use management of the public lands. The Department looks forward to continuing a dialogue with the Congress on these important matters.

**Background**

The BLM manages over 17,000 livestock grazing permits and leases for 12.4 million AUMs (animal unit months) across 155 million acres of public lands in the West. Since 1999, the BLM has evaluated the health of the rangelands based on standards and guidelines that were developed with extensive input from the ranching community, as well as from scientists, conservationists, and other Federal and state agencies. The BLM collects monitoring and assessment data to compare current conditions with the standards and land use plan objectives. This information is



used to complete environmental assessments, to develop alternative management actions, and to modify grazing management as needed.

The BLM administers the range program through issuance of grazing permits or leases. The Federal Land Policy and Management Act (FLPMA) provides for a 10-year (or less) term for grazing permits. In a typical year, the BLM processes up to 2,000 permit renewals or transfers. In 1999 and 2000, the BLM saw a spike in permit renewals, when over 7,200 permits were due for renewal. The BLM was unable to process all those permits before expiration, which resulted in a backlog of grazing permit renewals that remains today. By the end of the 2013 Fiscal Year, the BLM anticipates that a backlog of 4,964 unprocessed permits will remain. Congress has assisted the BLM since Fiscal Year 2004 by adding language to Appropriations measures that allow grazing leases and permits to continue in effect until the agency has completed processing a renewal, transfer, or waiver. The BLM is committed to eliminating the backlog of grazing permit renewals and to issuing permits in the year they expire. An increase in appeals and litigation of grazing management decisions continues to pose significant workload and resource challenges for the BLM.

The BLM will continue to focus on grazing permits for the most environmentally sensitive allotments, using authorities Congress provided in the FY 2012 Consolidated Appropriations Act concerning grazing permit renewals and transfers. This strategy will allow the BLM to address a wide array of critical resource management issues through its land health assessments and grazing decisions. Additionally, this strategy will help ensure that the backlog of unprocessed permits consists of the least environmentally sensitive allotments that are more custodial in nature and/or that are already meeting land health standards.

#### S. 258

S. 258 provides for automatic renewal of all expired, transferred, or waived permits, and categorically excludes all permit renewals, reissuance, or transfers from preparation of an environmental analysis under the National Environmental Policy Act (NEPA) if the decision continues current grazing management of the allotment. Terms and conditions of the permit would continue until a permit is later renewed in full compliance with NEPA and other Federal laws. The bill does not first require a determination that the permittee is meeting land health standards. S. 258 doubles the duration of grazing permits from 10 to 20 years, and stipulates that livestock crossing and trailing permits and transfers of grazing preference are exempt from analysis under NEPA.

The Department supports the concept of having the flexibility to issue longer term permits in certain circumstances, as well as the transfer provision that is currently in place under the FY 2012 Consolidated Appropriations Act. That provision is expected to reduce the permit renewal workload in 2013 by about 700 permits. The number of transfers needing processing each year is unpredictable, posing significant challenges to the BLM as it works to manage staff and other resources.

S. 258 includes provisions that the Department cannot support since they provide for automatic permit or lease renewal without requiring further analysis or assurances the permittee is meeting land health standards. The bill limits the BLM's ability to provide for appropriate environmental review and public involvement. S. 258 would result in the majority of permits being renewed

under a categorical exclusion. The engagement of the public through the environmental review process under NEPA is a crucial component of the BLM's multiple-use management of the public lands. In summary, while S. 258 contains provisions that would expedite permitting, the Department cannot support it because of the overarching impact the bill could have on the 155 million acres of public lands used for livestock grazing, potentially affecting other valid uses and the health of the land itself.

### **Conclusion**

Thank you for the opportunity to present testimony on S. 258. The BLM looks forward to working with the Congress to develop improvements to the grazing permit renewal process while maintaining the integrity of NEPA, the Nation's bedrock environmental and citizen involvement law, and FLPMA, our multiple-use statute requiring consideration of many uses and values of the public lands. I will be pleased to answer any questions.